



07-26-01

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#9

PATENT

Attorney Docket No. 203-1544 CIP CON III (1695 CIP CON)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(s): Dominick L. Mastri et al. EXAMINER: S. Smith
SERIAL NO: 09/625,886 GROUP: 3721
FILED: July 26, 2000 DATE: July 24, 2001
FOR: SURGICAL STAPLER DOCKET: 203-1544 CIP CON
III (1695 CIP CON)

Assistant Commissioner for Patents
Washington, D.C. 20231

RENEWED PETITION UNDER 37 C.F.R. §1.137(b)

Dear Sir:

The above-identified application became abandoned for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance. Applicants were notified of the Abandonment by the Notice of Abandonment mailed February 13, 2001. On May 11, 2001, applicants petitioned to revive the above-identified application under 37 C.F.R. § 1.137(b). The petition was dismissed because applicants failed to submit the issue fee as required by the Notice of Allowance. Applicants hereby renew their petition for revival of this application.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.10

I hereby certify that this correspondence and the documents referred to as enclosed are being deposited with the United States Postal Service on date below in an envelope as "Express Mail Post Office to Addressee" Mail Label Number EL918828905US addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

Dated: July 24, 2001

Christopher G. Trainor
Christopher G. Trainor

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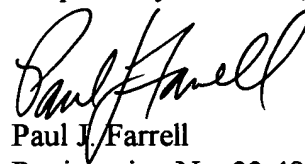
OFFICE OF PETITIONS

Accompanying this petition is the issue fee of \$1,240.00. A Request For Continued Examination (RCE) transmittal, a check for \$710.00 for the RCE fee, and a preliminary amendment were previously submitted with the petition filed May 11, 2001. Copies of these documents are attached hereto. Since this application was filed after June 8, 1995, no terminal disclaimer is required. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. §1.137(b) was unintentional.

If the enclosed check is insufficient for any reason or becomes detached, please charge the required fee under 37 C.F.R. § 1.16(e) to Deposit Account No. 04-1121. Also, in the event any additional extensions of time are required, please treat this paper as a petition to extend the time as required and charge Deposit Account No. 04-1121. TWO (2) COPIES OF THIS SHEET ARE ENCLOSED.

DILWORTH & BARRESE
333 Earle Ovington Boulevard
Uniondale, New York 11553

Respectfully submitted,



Paul J. Farrell
Registration No. 33,494
Attorney for Applicant(s)

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PATENT

Attorney Docket No. 203-1544 CIP CON III (1695 CIP CON)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(s):	Dominick L. Mastri et al.	EXAMINER: S. Smith
SERIAL NO:	09/625,886	GROUP: 3721
FILED:	July 26, 2000	DATE: May 11, 2001
FOR:	SURGICAL STAPLER	DOCKET: 203-1544 CIP CON III (1695 CIP CON)

Assistant Commissioner for Patents
Washington, D.C. 20231

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b)**

Dear Sir:

The above-identified application became abandoned for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance. Applicant was notified of the Abandonment by the Notice of Abandonment mailed February 13, 2001. Applicant hereby petitions for revival of this application.

Accompanying this petition are the petition fee of \$1,240.00, a Request For Continued Examination (RCE) transmittal, a check for \$710.00 for the RCE fee, and a

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.10

I hereby certify that this correspondence and the documents referred to as enclosed are being deposited with the United States Postal Service on date below in an envelope as "Express Mail Post Office to Addressee" Mail Label Number EL820507615US addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Dated: May 11, 2001

Christopher G. Trainor
Christopher G. Trainor

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preliminary amendment. Since this application was filed after June 8, 1995, no terminal disclaimer is required. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. §1.137(b) was unintentional.

Respectfully submitted,

Christopher G. Trainor

DILWORTH & BARRESE
333 Earle Ovington Boulevard
Uniondale, New York 11553

Christopher G. Trainor
Registration No. 39,517
Attorney for Applicant(s)

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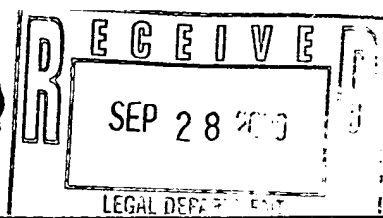
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PART B—ISSUE FEE TRANSMITTAL

Complete and mail this form, together with applicable fees, to:

Box ISSUE FEE
Assistant Commissioner for Patents
Washington, D.C. 20231

JUL 25 2001



MAILING INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE. Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Issue Fee Receipt, the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

QM32/0926
UNITED STATES SURGICAL CORP
150 GLOVER AVENUE
06856 NORWALK
UNITED STATES

Note: The certificate of mailing below can only be used for domestic mailings of the Issue Fee Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing.

Certificate of Mailing

I hereby certify that this Issue Fee Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above on the date indicated below.

Christopher G. Trainor (Depositor's name)

Christopher G. Trainor (Signature)

July 24, 2001 (Date)

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
09/625,886	07/26/00	001	SMITH, S 3721	09/26/00
First Named Applicant	MASTRI, 35 USC 154(b) term ext. = 0 Days.			

TITLE OF
INVENTION SURGICAL STAPLER

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
2	1695 CIP CON	227-176.100	S84	UTILITY	NO	\$1210.00 12/26/00

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47) attached.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 DILWORTH & BARRESE, LLP

2

3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)
PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the PTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

UNITED STATES SURGICAL CORPORATION

(B) RESIDENCE: (CITY & STATE OR COUNTRY)

NORWALK, CT

Please check the appropriate assignee category indicated below (will not be printed on the patent)

☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fees are enclosed (make check payable to Commissioner of Patents and Trademarks):

☒ Issue Fee☒ Advance Order - # of Copies 10

4b. The following fees or deficiency in these fees should be charged to:

DEPOSIT ACCOUNT NUMBER 04-1121
(ENCLOSE AN EXTRA COPY OF THIS FORM)

☐ Issue Fee☐ Advance Order - # of Copies

The COMMISSIONER OF PATENTS AND TRADEMARKS IS requested to apply the Issue Fee to the application identified above.

(Authorized Signature) Christopher G. Trainor
CHRISTOPHER G. TRAINOR, REG. NO. 39,517

(Date)
7/24/01

NOTE: The Issue Fee will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the Patent and Trademark Office.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending on the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND FEES AND THIS FORM TO: Box Issue Fee, Assistant Commissioner for Patents, Washington D.C. 20231

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

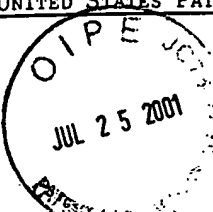
07/27/2001 NYUSUF2 00000055 041121 09625886
01 FC:142
02 FC:561 30.00 CH 1240.00 DP

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TRANSMIT THIS FORM WITH FEE

UNITED STATES SURGICAL CORP
150 GLOVER AVENUE
NORWALK CT 06856

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Paper No. 7

COPY MAILED

MAY 24 2001

In re Application of
Mastri, et al.
Application No. 09/625,886
Filed: July 26, 2000
Attorney Docket No. 1695 CIP CONOFFICE OF PETITIONS
A/C PATENTS
DECISION ON PETITION

This is a decision on the petition filed on May 11, 2001, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is **not** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance, mailed September 26, 2000. This Notice set a statutory period of three (3) months from the mailing date of the notice for fee transmittal. The three-month statutory period for paying issue fees cannot be extended. No issue fee having been received, the above-identified application became abandoned on December 27, 2000. A Notice of Abandonment was mailed on February 13, 2001.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The instant petition lacks item (1), the required reply.

Although petitioner did file a Request for Continued Examination (RCE) together with the RCE fee and an amendment, **petitioner has failed to submit the issue fee** as required by the Notice of Allowance. Whenever a case becomes abandoned for failure to pay the issue fee, the issue fee must be part of any reply.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Further correspondence with respect to this decision should be

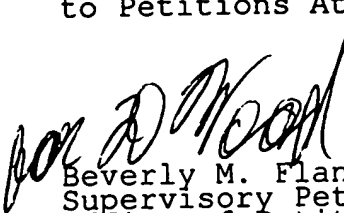
addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Christopher G. Trainor
Dilworth & Barrese
333 Earle Ovington Boulevard
Uniondale, NY 11553

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PATENT

Attorney Docket No. 203-1544 CIP CON III (1695 CIP CON)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(s):	Dominick L. Mastri et al.	EXAMINER:	S. Smith
SERIAL NO:	09/625,886	GROUP:	3721
FILED:	July 26, 2000	DATE:	May 11, 2001
FOR:	SURGICAL STAPLER	DOCKET:	203-1544 CIP CON III (1695 CIP CON)

Assistant Commissioner for Patents
Washington, D.C. 20231

PRELIMINARY AMENDMENT

Dear Sir:

Prior to examination, please amend this application as follows:

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IN THE CLAIMS:

Please cancel Claim 1 and add the following new claims:

20. A surgical stapling kit which comprises:

a) a surgical stapler having a handle portion, an elongate body extending distally from the handle portion, and an actuation assembly operatively associated with the handle portion and the elongate body, the body of the stapler having a first portion of an engagement coupling disposed at a distal end portion thereof; and

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Dated: May 11, 2001

Christopher G. Trainor
Christopher G. Trainor

b) at least first and second interchangeable disposable loading units each having a different stroke length corresponding to the length of a staple row applied to body tissue thereby, and a second portion of an engagement coupling for releasably engaging the first portion of the engagement coupling of the surgical stapler at the distal end portion of the elongate stapler body.

21. A surgical stapling kit as recited in Claim 20, wherein each disposable loading unit includes a carrier which supports a staple cartridge containing a plurality of surgical fasteners and an anvil against which the fasteners are driven when ejected from the staple cartridge in response to operation of the actuation assembly.

22. A surgical stapling kit as recited in Claim 21, wherein the second portion of the engagement coupling is operatively associated with a proximal end portion of the carrier of each disposable loading unit.

23. A surgical stapling kit as recited in Claim 21, wherein each disposable loading unit includes an actuator mounted to translate through the staple cartridge to interact with a plurality of staple pushers which sequentially urge the surgical fasteners from the staple cartridge in a direction transverse to the direction in which the actuator translates.

24. A surgical stapling kit as recited in Claim 20, wherein the stroke length of each disposable loading unit is selected from the group consisting of a 30mm stroke length, a 45mm stroke length, and a 60mm stroke length.

25. A disposable loading unit for utilization with a surgical stapler, the stapler having a handle portion, an elongated body extending distally from the handle portion, and an actuation assembly operatively associated with the handle portion and the

elongated body, the disposable loading unit comprising:

- a) a carrier having a proximal end portion including a coupling for releasable engagement in a distal end portion of the elongated body;
- b) a staple cartridge supported in the carrier and containing a plurality of surgical fasteners and a plurality of fastener pushers for ejecting the fasteners from the staple cartridge;
- c) an anvil supported on the carrier and mounted for movement with respect to the staple cartridge between an open position and a closed position, the anvil having a fastener forming surface against which the surgical fasteners are driven when ejected from the staple cartridge by the fastener pushers and a camming surface opposite the fastener forming surface;
- d) an actuator mounted to translate through the staple cartridge to sequentially interact with the fastener pushers; and
- e) a drive beam having a proximal engagement portion configured to mate with a distal end portion of the actuation assembly of the stapler and a distal working end portion including an abutment surface for engaging the actuator and a camming member for engaging the camming surface of the anvil, whereby operation of the actuation assembly moves the drive beam through the carrier causing the camming member to progressively close the anvil as the actuator translates through the staple cartridge to sequentially interact with the plurality of fastener pushers.

26. A stapling unit as recited in Claim 25, wherein the camming member comprises a cylindrical cam roller mounted on a flange extending from the distal working end portion of the drive beam.

27. A stapling unit as recited in Claim 26, wherein a longitudinal slot is defined in the anvil to accommodate the linear translation of the working end portion of the drive beam.

28. A stapling unit as recited in Claim 26, further comprising a transverse support flange operatively mounted on the working end portion of the drive beam opposite the cam roller and positioned to engage an undersurface portion of the carrier as the cam roller engages the camming surface of the anvil.

29. A stapling unit as recited in Claim 28, wherein a longitudinal slot is defined in the undersurface of the carrier to accommodate the linear translation of the working end portion of the drive beam.

30. A stapling unit as recited in Claim 25, wherein a knife blade is operatively supported adjacent a leading edge of the working end portion of the drive beam for forming an incision in stapled body tissue.

31. A stapling unit as recited in Claim 25, wherein the actuator comprises a sled including a planar base portion and a plurality of spaced apart upstanding cam wedges each having an inclined leading edge for interacting with the fastener pushers within the staple cartridge.

32. A method of applying at least one surgical fastener to body tissue comprising:
providing a surgical apparatus, the surgical apparatus having a handle portion including a movable actuation handle and an elongated body extending distally from the handle portion, the elongated body having proximal and distal end portions, the elongated body distal end portion being adapted to receive a disposable loading unit;

providing a first disposable loading unit having at least one surgical fastener of a

first type;

securing the first disposable loading unit to the distal end of the elongated body;

moving the actuation handle to deform the at least one surgical fastener provided in the first disposable loading unit;

removing the first disposable loading unit from the distal end of the elongated body;

providing a second disposable loading unit having at least one surgical fastener of a second type different from the first type;

securing the second disposable loading unit to the distal end of the elongated body; and

moving the actuation handle to deform the at least one surgical fastener provided in the second disposable loading unit.

REMARKS

Claims 20-32 are currently pending in this application. By this amendment, Claim 1 has been canceled and Claims 20-32 have been added. No new matter has been added by this amendment.

It is respectfully submitted that all of the Claims now pending in this application Claims 20-32 are in condition for allowance. Accordingly, early and favorable consideration of this application is respectfully

requested. Should the Examiner feel that a telephone or personal interview may facilitate resolution of any remaining matters, he is respectfully requested to contact Applicant's attorney at the number indicated below.

Respectfully submitted,

Christopher G. Trainor

DILWORTH & BARRESE
333 Earle Ovington Blvd.
Uniondale, New York 11553
(516) 228-8484
CGT/PMC

Christopher G. Trainor
Reg. No. 39,517
Attorney for Applicant(s)

JUL 25 2001

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Dominick L. Mastri et al. Examiner: S. Smith
 Serial No.: 09/625,886 Group: 3721
 Filed: July 26, 2000 Docket: 203-1544 CIP CON III
 (1695 CIP CON)
 For: SURGICAL STAPLER Dated: May 11, 2001

Assistant Commissioner for Patents
 Washington, D.C. 20231

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AMENDMENT TRANSMITTAL FORM

Sir:

Transmitted herewith is an amendment in the above-identified application.

- ☐ Small entity status of this application under 37 C.F.R. § 1.9 and 1.27 has been established by a verified statement previously submitted.
- ☐ A verified statement to establish small entity under 37 C.F.R. § 1.9 and 1.27 is enclosed.
- ☒ No additional fee is required.

The fee has been calculated as shown below:

	(Col. 1)	(Col. 2)	(Col. 3)	SMALL ENTITY	OTHER THAN SMALL ENTITY
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	ADDIT. RATE FEE	ADDIT. RATE FEE
TOTAL	20 MINUS 20		= 0	X 9 \$	X 18 \$ 0
INDEP.	3 MINUS 3		= 0	X 39 \$	X 78 \$ 0
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				X 135 \$	X 270 \$ 0
	TOTAL			OR TOTAL \$ 0	
	ADDIT. FEE			\$ -0-	

- * If the entry in Co. 1 is less than entry in Col. 2, write "0" in Col. 3.
 ** If the "Highest No. Previously Paid for" IN THIS SPACE is less than 20, enter "20".
 *** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".
 The Highest No. Previously Paid For (Total or indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

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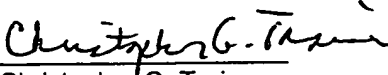
Dated: May 11, 2001

Christopher G. Trainor
 Christopher G. Trainor

- ☐ Please charge Deposit Account No. 04-1121 in the amount of \$____. Two (2) copies of this sheet are enclosed.
- ☐ A check in the amount of \$____ is enclosed.
- ☒ Please charge any deficiency as well as any other fee(s) which may become due under 37 C.F.R. § 1.16 and/or 1.17 at any time during the pendency of this application, or credit any overpayment of such fee(s) to Deposit Account No. 04-1121. Also, in the event any extensions of time for responding are required for the pending application(s), please treat this paper as a petition to extend the time as required and charge Deposit Account No. 04-1121 therefor. TWO (2) COPIES OF THIS SHEET ARE ENCLOSED.

Respectfully submitted,

DILWORTH & BARRESE
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Uniondale, NY 11553
(516) 228-8484
CGT/PMC


Christopher G. Trainor
Reg. No. 39,517
Attorney for Applicant(s)

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U.S. PATENT AND TRADEMARK OFFICE DATE STAMP WILL
ACKNOWLEDGE RECEIPT OF:

1. Request for Continued Examination (RCE) Transmittal
2. Petition for Revival of an Application for Patent Abandoned....(2 pages)
3. Preliminary Amendment (6 pages)
4. Amendment Transmittal Letter (2 pages) in triplicate
5. Certificate of Mailing via Express Mail EL820507615US
6. Checks in the amount of \$1,240 and \$710.00

Applicant: Dominick L. Mastri et al.
Serial No: 09/625,886
Filed: July 26, 2000
Docket: 203-1544 CIP CON III (1695 CIP CON)
CGT/PMC- 5/11/2001